

AMENDED IN ASSEMBLY APRIL 24, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1487

**Introduced by Assembly Members Berryhill, Maze, and Spitzer
(Coauthors: Assembly Members Fuller, Garrick, Nakanishi, Parra,
and Sharon Runner)**

February 23, 2007

An act to amend Sections ~~14602.8~~, 23538, 23556, and 23575 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1487, as amended, Berryhill. Vehicles: driving-under-the-influence.

~~(1) Existing law provides that a peace officer may cause the immediate removal and seizure of a vehicle where the officer determines a person has been convicted of driving a motor vehicle under the influence of alcohol or drugs, or both (DUI), within the preceding 10 years, and certain specified circumstances are present, including, but not limited to, the person is driving a vehicle when the person has 0.10% or more concentration of alcohol, by weight, in his or her blood.~~

~~This bill would change the above circumstance of when a police officer may immediately cause removal and seizure of the vehicle to where the person is driving a vehicle when the person has 0.08% or more concentration of alcohol, by weight, in his or her blood, as measured by a preliminary alcohol screening test or chemical test.~~

~~(2)~~

~~(1) Existing law requires that if a person has been convicted of a first offense DUI, without causing bodily injury to another, and is granted probation, that person is subject to certain conditions of the probation.~~

In a county where the board of supervisors has approved a licensed driving-under-the-influence program, as defined, existing law requires the court to refer that person to participate in a licensed driving-under-the-influence program for at least 3 months, if the person's blood alcohol concentration was less than 0.20%, by weight, or for at least 9 months if the person's blood alcohol concentration was more than 0.20%, by weight, or that person refused to take a chemical test.

This bill would reduce the level of blood alcohol concentration required for the referral to participate in a licensed driving-under-the-influence program, where the person is otherwise eligible, to less than 0.15%, by weight, for the program of at least 3 months and to more than 0.15%, by weight, for the program of at least 9 months.

(3)

(2) Existing law requires that if a person has been convicted of a first offense DUI, causing bodily injury to another, and is granted probation, that person is subject to certain conditions of the probation. In a county where the board of supervisors has approved a driving-under-the-influence program, as defined, existing law requires the court to refer that person to participate in a licensed driving-under-the-influence program for at least 3 months, if the person's blood alcohol concentration was less than 0.20%, by weight, or for at least 9 months if the person's blood alcohol concentration was more than 0.20%, by weight, or that person refused to take a chemical test.

This bill would reduce the level of blood alcohol concentration required for the referral to participate in a licensed driving-under-the-influence program, where the person is otherwise eligible, to less than 0.15%, by weight, for the program of at least 3 months and to more than 0.15%, by weight, for the program of at least 9 months.

To the extent this bill would increase the level of services required to be provided by county probation officers in monitoring the program participation, the bill would impose a state-mandated local program.

(4)

(3) Existing law authorizes the court to require a person convicted of a first offense of driving-under-the-influence, with or without injuring another person, to install a certified ignition interlock device on any vehicle that the person owns or operates and prohibits that person from operating a motor vehicle unless it is equipped with a functioning device. The court is required to give heightened consideration in applying the

sanction to, among other things, a first offense violator with a blood alcohol concentration of 0.20% or more, by weight, at the time of his or her arrest.

This bill would reduce the amount of blood alcohol concentration that the court would be required to give heightened consideration in applying the sanction, to 0.15% or more, by weight, at the time of his or her arrest.

(5)

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 14602.8 of the Vehicle Code is amended~~
2 ~~to read:~~

3 ~~14602.8. (a) (1) If a peace officer determines that a person~~
4 ~~has been convicted of a violation of Section 23140, 23152, or~~
5 ~~23153, that the violation occurred within the preceding 10 years,~~
6 ~~and that one or more of the following circumstances applies to that~~
7 ~~person, the officer may immediately cause the removal and seizure~~
8 ~~of the vehicle that the person was driving, under either of the~~
9 ~~following circumstances:~~

10 ~~(A) The person was driving a vehicle when the person had 0.08~~
11 ~~percent or more, by weight, of alcohol in his or her blood, as~~
12 ~~measured by a preliminary alcohol screening test or chemical test.~~

13 ~~(B) The person driving the vehicle refused to submit to or~~
14 ~~complete a chemical test requested by the peace officer.~~

15 ~~(2) A vehicle impounded pursuant to paragraph (1) shall be~~
16 ~~impounded for the following period of time:~~

17 ~~(A) Five days, if the person has been convicted once of violating~~
18 ~~Section 23140, 23152, or 23153, and the violation occurred within~~
19 ~~the preceding 10 years.~~

20 ~~(B) Fifteen days, if the person has been convicted two or more~~
21 ~~times of violating Section 23140, 23152, or 23153, or any~~

1 combination thereof, and the violations occurred within the
2 preceding 10 years.

3 (3) Within two working days after impoundment, the impounding
4 agency shall send a notice by certified mail, return receipt
5 requested, to the legal owner of the vehicle, at the address obtained
6 from the department, informing the owner that the vehicle has
7 been impounded. Failure to notify the legal owner within two
8 working days shall prohibit the impounding agency from charging
9 for more than five days' impoundment when the legal owner
10 redeems the impounded vehicle. The impounding agency shall
11 maintain a published telephone number that provides information
12 24 hours a day regarding the impoundment of vehicles and the
13 rights of a registered owner to request a hearing.

14 (b) The registered and legal owner of a vehicle that is removed
15 and seized under subdivision (a) or his or her agent shall be
16 provided the opportunity for a storage hearing to determine the
17 validity of, or consider any mitigating circumstances attendant to,
18 the storage, in accordance with Section 22852.

19 (c) Any period during which a vehicle is subjected to storage
20 under this section shall be included as part of the period of
21 impoundment ordered by the court under Section 23594.

22 (d) (1) The impounding agency shall release the vehicle to the
23 registered owner or his or her agent prior to the end of the
24 impoundment period under any of the following circumstances:

25 (A) When the vehicle is a stolen vehicle.

26 (B) When the vehicle is subject to bailment and is driven by an
27 unlicensed employee of a business establishment, including a
28 parking service or repair garage.

29 (C) When the driver of the vehicle is not the sole registered
30 owner of the vehicle and the vehicle is being released to another
31 registered owner of the vehicle who agrees not to allow the driver
32 to use the vehicle until after the end of the impoundment period.

33 (2) A vehicle shall not be released pursuant to this subdivision
34 without presentation of the registered owner's or agent's currently
35 valid driver's license to operate the vehicle and proof of current
36 vehicle registration, or upon order of a court.

37 (e) The registered owner or his or her agent is responsible for
38 all towing and storage charges related to the impoundment, and
39 any administrative charges authorized under Section 22850.5.

1 (f) A vehicle removed and seized under subdivision (a) shall be
2 released to the legal owner of the vehicle or the legal owner's agent
3 prior to the end of the impoundment period if all of the following
4 conditions are met:

5 (1) The legal owner is a motor vehicle dealer, bank, credit union,
6 acceptance corporation, or other licensed financial institution
7 legally operating in this state, or is another person who is not the
8 registered owner and holds a security interest in the vehicle.

9 (2) The legal owner or the legal owner's agent pays all towing
10 and storage fees related to the seizure of the vehicle. A lien sale
11 processing fee shall not be charged to the legal owner who redeems
12 the vehicle prior to the 10th day of impoundment. The impounding
13 authority or any person having possession of the vehicle shall not
14 collect from the legal owner of the type specified in paragraph (1);
15 or the legal owner's agent any administrative charges imposed
16 pursuant to Section 22850.5 unless the legal owner voluntarily
17 requested a poststorage hearing.

18 (3)(A) The legal owner or the legal owner's agent presents either
19 lawful foreclosure documents or an affidavit of repossession for
20 the vehicle, and a security agreement or title showing proof of
21 legal ownership for the vehicle. All presented documents may be
22 originals, photocopies, or facsimile copies, or may be transmitted
23 electronically. The impounding agency shall not require a
24 document to be notarized. The impounding agency may require
25 the agent of the legal owner to produce a photocopy or facsimile
26 copy of its repossession agency license or registration issued
27 pursuant to Chapter 11 (commencing with Section 7500) of
28 Division 3 of the Business and Professions Code, or to demonstrate,
29 to the satisfaction of the impounding agency, that the agent is
30 exempt from licensure pursuant to Section 7500.2 or 7500.3 of the
31 Business and Professions Code.

32 (B) Administrative costs authorized under subdivision (a) of
33 Section 22850.5 shall not be charged to the legal owner of the type
34 specified in paragraph (1), who redeems the vehicle unless the
35 legal owner voluntarily requests a poststorage hearing. A city,
36 county, city or county, or state agency shall not require a legal
37 owner or a legal owner's agent to request a poststorage hearing as
38 a requirement for release of the vehicle to the legal owner or the
39 legal owner's agent. The impounding agency shall not require any
40 documents other than those specified in this paragraph. The

1 ~~impounding agency shall not require any documents to be~~
2 ~~notarized.~~

3 ~~(C) As used in this paragraph, “foreclosure documents” means~~
4 ~~an “assignment” as that term is defined in subdivision (o) of~~
5 ~~Section 7500.1 of the Business and Professions Code.~~

6 ~~(g) (1) A legal owner or the legal owner’s agent who obtains~~
7 ~~release of the vehicle pursuant to subdivision (f) may not release~~
8 ~~the vehicle to the registered owner of the vehicle or any agents of~~
9 ~~the registered owner, unless the registered owner is a rental car~~
10 ~~agency, until after the termination of the impoundment period.~~

11 ~~(2) The legal owner or the legal owner’s agent shall not~~
12 ~~relinquish the vehicle to the registered owner until the registered~~
13 ~~owner or that owner’s agent presents his or her valid driver’s~~
14 ~~license or valid temporary driver’s license to the legal owner or~~
15 ~~the legal owner’s agent. The legal owner or the legal owner’s agent~~
16 ~~shall make every reasonable effort to ensure that the license~~
17 ~~presented is valid.~~

18 ~~(3) Prior to relinquishing the vehicle, the legal owner may require~~
19 ~~the registered owner to pay all towing and storage charges related~~
20 ~~to the impoundment and any administrative charges authorized~~
21 ~~under Section 22850.5 that were incurred by the legal owner in~~
22 ~~connection with obtaining custody of the vehicle.~~

23 ~~(h) (1) A vehicle removed and seized under subdivision (a) shall~~
24 ~~be released to a rental car agency prior to the end of the~~
25 ~~impoundment period if the agency is either the legal owner or~~
26 ~~registered owner of the vehicle and the agency pays all towing and~~
27 ~~storage fees related to the seizure of the vehicle.~~

28 ~~(2) The owner of a rental vehicle that was seized under this~~
29 ~~section may continue to rent the vehicle upon recovery of the~~
30 ~~vehicle. However, the rental car agency shall not rent another~~
31 ~~vehicle to the driver of the vehicle that was seized until the~~
32 ~~impoundment period has expired.~~

33 ~~(3) The rental car agency may require the person to whom the~~
34 ~~vehicle was rented to pay all towing and storage charges related~~
35 ~~to the impoundment and any administrative charges authorized~~
36 ~~under Section 22850.5 that were incurred by the rental car agency~~
37 ~~in connection with obtaining custody of the vehicle.~~

38 ~~(i) Notwithstanding any other provision of this section, the~~
39 ~~registered owner, and not the legal owner, shall remain responsible~~
40 ~~for any towing and storage charges related to the impoundment,~~

1 any administrative charges authorized under Section 22850.5, and
2 any parking fines, penalties, and administrative fees incurred by
3 the registered owner.

4 (j) The impounding agency is not liable to the registered owner
5 for the improper release of the vehicle to the legal owner or the
6 legal owner's agent provided the release complies with this section.

7 ~~SEC. 2.~~

8 *SECTION 1.* Section 23538 of the Vehicle Code is amended
9 to read:

10 23538. (a) (1) If the court grants probation to a person
11 punished under Section 23536, in addition to the provisions of
12 Section 23600 and any other terms and conditions imposed by the
13 court, the court shall impose as a condition of probation that the
14 person pay a fine of at least three hundred ninety dollars (\$390),
15 but not more than one thousand dollars (\$1,000). The court may
16 also impose, as a condition of probation, that the person be
17 confined in a county jail for at least 48 hours, but not more than
18 six months.

19 (2) The person's privilege to operate a motor vehicle shall be
20 suspended by the department under paragraph (1) of subdivision
21 (a) of Section 13352 or Section 13352.1. The court shall require
22 the person to surrender the driver's license to the court in
23 accordance with Section 13550.

24 (3) Whenever, when considering the circumstances taken as a
25 whole, the court determines that the person punished under this
26 section would present a traffic safety or public safety risk if
27 authorized to operate a motor vehicle during the period of
28 suspension imposed under paragraph (1) of subdivision (a) of
29 Section 13352 or Section 13352.1, the court may disallow the
30 issuance of a restricted driver's license required under Section
31 13352.4.

32 (b) In any county where the board of supervisors has approved,
33 and the State Department of Alcohol and Drug Programs has
34 licensed, a program or programs described in Section 11837.3 of
35 the Health and Safety Code, the court shall also impose as a
36 condition of probation that the driver shall enroll and participate
37 in, and successfully complete a driving-under-the-influence
38 program, licensed pursuant to Section 11836 of the Health and
39 Safety Code, in the driver's county of residence or employment,
40 as designated by the court. For the purposes of this subdivision,

1 enrollment in, participation in, and completion of an approved
2 program shall be subsequent to the date of the current violation.
3 Credit may not be given for any program activities completed prior
4 to the date of the current violation.

5 (1) The court shall refer a first offender whose blood-alcohol
6 concentration was less than 0.15 percent, by weight, to participate
7 for at least three months or longer, as ordered by the court, in a
8 licensed program that consists of at least 30 hours of program
9 activities, including those education, group counseling, and
10 individual interview sessions described in Chapter 9 (commencing
11 with Section 11836) of Part 2 of Division 10.5 of the Health and
12 Safety Code.

13 (2) The court shall refer a first offender whose blood-alcohol
14 concentration was 0.15 percent or more, by weight, or who refused
15 to take a chemical test, to participate for at least nine months or
16 longer, as ordered by the court, in a licensed program that consists
17 of at least 60 hours of program activities, including those education,
18 group counseling, and individual interview sessions described in
19 Chapter 9 (commencing with Section 11836) of Part 2 of Division
20 10.5 of the Health and Safety Code.

21 (3) The court shall advise the person at the time of sentencing
22 that the driving privilege shall not be restored until proof
23 satisfactory to the department of successful completion of a
24 driving-under-the-influence program of the length required under
25 this code that is licensed pursuant to Section 11836 of the Health
26 and Safety Code has been received in the department's
27 headquarters.

28 (c) (1) The court shall revoke the person's probation pursuant
29 to Section 23602, except for good cause shown, for the failure to
30 enroll in, participate in, or complete a program specified in
31 subdivision (b).

32 (2) The court, in establishing reporting requirements, shall
33 consult with the county alcohol program administrator. The county
34 alcohol program administrator shall coordinate the reporting
35 requirements with the department and with the State Department
36 of Alcohol and Drug Programs. That reporting shall ensure that
37 all persons who, after being ordered to attend and complete a
38 program, may be identified for either (A) failure to enroll in, or
39 failure to successfully complete, the program, or (B) successful
40 completion of the program as ordered.

1 ~~SEC. 3.~~

2 *SEC. 2.* Section 23556 of the Vehicle Code is amended to read:

3 23556. (a) (1) If the court grants probation to any person
4 punished under Section 23554, in addition to the provisions of
5 Section 23600 and any other terms and conditions imposed by the
6 court, the court shall impose as a condition of probation that the
7 person be confined in the county jail for at least five days but not
8 more than one year and pay a fine of at least three hundred ninety
9 dollars (\$390), but not more than one thousand dollars (\$1,000).

10 (2) The person's privilege to operate a motor vehicle shall be
11 suspended by the department under paragraph (2) of subdivision
12 (a) of Section 13352. The court shall require the person to surrender
13 the driver's license to the court in accordance with Section 13550.

14 (b) (1) In a county where the county alcohol program
15 administrator has certified, and the board of supervisors has
16 approved, a program or programs, the court shall also impose as
17 a condition of probation that the driver shall participate in, and
18 successfully complete, an alcohol and other drug education and
19 counseling program, established pursuant to Section 11837.3 of
20 the Health and Safety Code, as designated by the court.

21 (2) In any county where the board of supervisors has approved
22 and the State Department of Alcohol and Drug Programs has
23 licensed an alcohol and other drug education and counseling
24 program, the court shall also impose as a condition of probation
25 that the driver enroll in, participate in, and successfully complete,
26 a driving-under-the-influence program licensed pursuant to Section
27 11836 of the Health and Safety Code, in the driver's county of
28 residence or employment, as designated by the court. For the
29 purposes of this paragraph, enrollment in, participation in, and
30 completion of, an approved program shall be subsequent to the
31 date of the current violation. Credit may not be given to any
32 program activities completed prior to the date of the current
33 violation.

34 (3) The court shall refer a first offender whose blood-alcohol
35 concentration was less than 0.15 percent, by weight, to participate
36 for three months or longer, as ordered by the court, in a licensed
37 program that consists of at least 30 hours of program activities,
38 including those education, group counseling, and individual
39 interview sessions described in Chapter 9 (commencing with

1 Section 11836) of Part 2 of Division 10.5 of the Health and Safety
2 Code.

3 (4) The court shall refer a first offender whose blood-alcohol
4 concentration was 0.15 percent or more, by weight, or who refused
5 to take a chemical test, to participate for nine months or longer,
6 as ordered by the court, in a licensed program that consists of at
7 least 60 hours of program activities, including those education,
8 group counseling, and individual interview sessions described in
9 Chapter 9 (commencing with Section 11836) of Part 2 of Division
10 10.5 of the Health and Safety Code.

11 (c) (1) The court shall revoke the person's probation pursuant
12 to Section 23602, except for good cause shown, for the failure to
13 enroll in, participate in, or complete a program specified in
14 subdivision (b).

15 (2) The court, in establishing reporting requirements, shall
16 consult with the county alcohol program administrator. The county
17 alcohol program administrator shall coordinate the reporting
18 requirements with the department and with the Department of
19 Alcohol and Drug Programs. That reporting shall ensure that all
20 persons who, after being ordered to attend and complete a program,
21 may be identified for either (A) failure to enroll in, or failure to
22 successfully complete, the program, or (B) successful completion
23 of the program as ordered.

24 (d) The court shall advise the person at the time of sentencing
25 that the driving privilege shall not be restored until the person has
26 provided proof satisfactory to the department of successful
27 completion of a driving-under-the-influence program of the length
28 required under this code that is licensed pursuant to Section 11836
29 of the Health and Safety Code.

30 ~~SEC. 4.~~

31 *SEC. 3.* Section 23575 of the Vehicle Code is amended to read:

32 23575. (a) (1) In addition to any other provisions of law, the
33 court may require that a person convicted of a first offense violation
34 of Section 23152 or 23153 to install a certified ignition interlock
35 device on any vehicle that the person owns or operates and prohibit
36 that person from operating a motor vehicle unless that vehicle is
37 equipped with a functioning, certified ignition interlock device.
38 The court shall give heightened consideration to applying this
39 sanction to a first offense violator with 0.15 percent or more, by
40 weight, of alcohol in his or her blood at arrest, or with two or more

1 prior moving traffic violations, or to persons who refused the
2 chemical tests at arrest. If the court orders the ignition interlock
3 device restriction, the term shall be determined by the court for a
4 period not to exceed three years from the date of conviction. The
5 court shall notify the Department of Motor Vehicles, as specified
6 in subdivision (a) of Section 1803, of the terms of the restrictions
7 in accordance with subdivision (a) of Section 1804. The
8 Department of Motor Vehicles shall place the restriction in the
9 person's records in the Department of Motor Vehicles.

10 (2) The court shall require a person convicted of a violation of
11 Section 14601.2 to install an ignition interlock device on any
12 vehicle that the person owns or operates and prohibit the person
13 from operating a motor vehicle unless the vehicle is equipped with
14 a functioning, certified ignition interlock device. The term of the
15 restriction shall be determined by the court for a period not to
16 exceed three years from the date of conviction. The court shall
17 notify the Department of Motor Vehicles, as specified in
18 subdivision (a) of Section 1803, of the terms of the restrictions in
19 accordance with subdivision (a) of Section 1804. The Department
20 of Motor Vehicles shall place the restriction in the person's records
21 in the Department of Motor Vehicles.

22 (b) The court shall include on the abstract of conviction or
23 violation submitted to the Department of Motor Vehicles under
24 Section 1803 or 1816, the requirement and term for the use of a
25 certified ignition interlock device. The records of the department
26 shall reflect mandatory use of the device for the term ordered by
27 the court.

28 (c) The court shall advise the person that installation of an
29 ignition interlock device on a vehicle does not allow the person to
30 drive without a valid driver's license.

31 (d) A person whose driving privilege is restricted by the court
32 pursuant to this section shall arrange for each vehicle with an
33 ignition interlock device to be serviced by the installer at least
34 once every 60 days in order for the installer to recalibrate and
35 monitor the operation of the device. The installer shall notify the
36 court if the device is removed or indicates that the person has
37 attempted to remove, bypass, or tamper with the device, or if the
38 person fails three or more times to comply with any requirement
39 for the maintenance or calibration of the ignition interlock device.

1 There is no obligation for the installer to notify the court if the
2 person has complied with all of the requirements of this article.

3 (e) The court shall monitor the installation and maintenance of
4 any ignition interlock device restriction ordered pursuant to
5 subdivision (a) or (l). If a person fails to comply with the court
6 order, the court shall give notice of the fact to the department
7 pursuant to Section 40509.1.

8 (f) (1) Pursuant to Section 13352, if a person is convicted of a
9 violation of Section 23152 or 23153, and the offense occurred
10 within 10 years of one or more separate violations of Section 23152
11 or 23153 that resulted in a conviction, the person may apply to the
12 Department of Motor Vehicles for a restricted driver's license
13 pursuant to Section 13352 that prohibits the person from operating
14 a motor vehicle unless that vehicle is equipped with a functioning
15 ignition interlock device, certified pursuant to Section 13386. The
16 restriction shall remain in effect for at least the remaining period
17 of the original suspension or revocation and until all reinstatement
18 requirements in Section 13352 are met.

19 (2) Pursuant to subdivision (g), the Department of Motor
20 Vehicles shall immediately terminate the restriction issued pursuant
21 to Section 13352 and shall immediately suspend or revoke the
22 privilege to operate a motor vehicle of a person who attempts to
23 remove, bypass, or tamper with the device, who has the device
24 removed prior to the termination date of the restriction, or who
25 fails three or more times to comply with any requirement for the
26 maintenance or calibration of the ignition interlock device ordered
27 pursuant to Section 13352. The privilege shall remain suspended
28 or revoked for the remaining period of the originating suspension
29 or revocation and until all reinstatement requirements in Section
30 13352 are met.

31 (g) A person whose driving privilege is restricted by the
32 Department of Motor Vehicles pursuant to Section 13352 shall
33 arrange for each vehicle with an ignition interlock device to be
34 serviced by the installer at least once every 60 days in order for
35 the installer to recalibrate the device and monitor the operation of
36 the device. The installer shall notify the Department of Motor
37 Vehicles if the device is removed or indicates that the person has
38 attempted to remove, bypass, or tamper with the device, or if the
39 person fails three or more times to comply with any requirement
40 for the maintenance or calibration of the ignition interlock device.

1 There is no obligation on the part of the installer to notify the
2 department or the court if the person has complied with all of the
3 requirements of this section.

4 (h) Nothing in this section permits a person to drive without a
5 valid driver's license.

6 (i) The Department of Motor Vehicles shall include information
7 along with the order of suspension or revocation for repeat
8 offenders informing them that after a specified period of suspension
9 or revocation has been completed, the person may either install an
10 ignition interlock device on any vehicle that the person owns or
11 operates or remain with a suspended or revoked driver's license.

12 (j) Pursuant to this section, an out-of-state resident who
13 otherwise would qualify for an ignition interlock device restricted
14 license in California shall be prohibited from operating a motor
15 vehicle in California unless that vehicle is equipped with a
16 functioning ignition interlock device. An ignition interlock device
17 is not required to be installed on any vehicle owned by the
18 defendant that is not driven in California.

19 (k) If a person has a medical problem that does not permit the
20 person to breathe with sufficient strength to activate the device,
21 then that person shall only have the suspension option.

22 (l) This section does not restrict a court from requiring
23 installation of an ignition interlock device and prohibiting operation
24 of a motor vehicle unless that vehicle is equipped with a
25 functioning, certified ignition interlock device for a person to
26 whom subdivision (a) or (b) does not apply. The term of the
27 restriction shall be determined by the court for a period not to
28 exceed three years from the date of conviction. The court shall
29 notify the Department of Motor Vehicles, as specified in
30 subdivision (a) of Section 1803, of the terms of the restrictions in
31 accordance with subdivision (a) of Section 1804. The Department
32 of Motor Vehicles shall place the restriction in the person's records
33 in the Department of Motor Vehicles.

34 (m) For the purposes of this section, "vehicle" does not include
35 a motorcycle until the state certifies an ignition interlock device
36 that can be installed on a motorcycle. Any person subject to an
37 ignition interlock device restriction shall not operate a motorcycle
38 for the duration of the ignition interlock device restriction period.

39 (n) For the purposes of this section, "owned" means solely
40 owned or owned in conjunction with another person or legal entity.

1 For purposes of this section, “operates” includes operating vehicles
2 that are not owned by the person subject to this section.

3 (o) For the purposes of this section, “bypass” includes, but is
4 not limited to, either of the following:

5 (1) Any combination of failing or not taking the ignition
6 interlock device rolling retest three consecutive times.

7 (2) Any incidence of failing or not taking the ignition interlock
8 device rolling retest, when not followed by an incidence of passing
9 the ignition interlock rolling retest prior to turning off the vehicle’s
10 engine.

11 ~~SEC. 5.~~

12 *SEC. 4.* No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.